

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

BRUTYN, N.V.,

Plaintiff,

v.

Case No. 04-C-0527

ANTHONY GAGLIANO CO., INC., et al,

Defendants.

ORDER

On May 5, 2005, the defendants in this action filed a motion for judgment on the pleadings, in which they seek dismissal of Counts One through Four of the complaint. Along with its brief in response to the defendants' motion the plaintiff filed the declaration of Marko Stegeman. Moreover, in its brief the plaintiff requests that Mr. Stegeman's declaration be considered by the court and that the defendants' motion be treated as a motion for summary judgment. In their reply the defendants treat their motion for judgment on the pleadings as having been converted to a motion for summary judgment.

On June 24, 2005, plaintiff's counsel wrote a letter to the court seeking its guidance as to whether, "under the procedural circumstances of this cases," the parties should have filed proposed findings of fact as called for under Civil Local Rule 56.2.

Given the procedural route that the defendants' motion has taken, I will not require the filing of proposed findings of fact as would normally be required under the local rules with respect to motions for summary judgment. Moreover, given that both the plaintiff and the defendants believe

that it would be appropriate for the defendants' motion to be treated as one for summary judgment, the court shall treat it as a motion for summary judgment and shall consider the matters outside the pleadings that have been filed. Such being the case, the defendants' motion has now been fully briefed and will be decided in due course.

SO ORDERED this 29th day of June 2005, at Milwaukee, Wisconsin.

s/ William E. Callahan, Jr. _____
WILLIAM E. CALLAHAN, JR.
United States Magistrate Judge